



September 30, 2011

Via email to: DeltaPlanComment@deltacouncil.ca.gov

To: Phil Isenberg, Chair and Members of the Delta Stewardship Council (DSC)
Joe Grindstaff, Acting Executive Director, Delta Stewardship Council and DSC Staff
Re: City of Antioch comments on the Fifth Draft Delta Plan

The City of Antioch (Antioch) is pleased to submit its comments regarding the Fifth Draft Delta Plan. Our comments are presented in tabular format, with chapter, page and line references, to make it easier for DSC staff to review.

Included in our comments is an important issue that does not appear to be discussed in the DSC Delta Plan. We bring this to your attention in hopes that you will consider addressing it in the final Delta Plan and EIR. The issue is this: cumulative impacts to the Delta system as a whole are not discussed in the plan, nor is there discussion of creating an oversight or regulatory agency to monitor overall health of the Delta system. For example, who will track the combined impacts of the BDCP, Three Mile Slough and Old and Middle River gates projects on the Delta as a whole?

Different agencies track different Delta indicators, yet there is no scientific body that addresses the viability of the Delta as a whole. As projects come on line, and “adaptive management” is used for both ecosystem restoration and project operations, who will track the cumulative impacts of the combination of projects coming on line? It seems appropriate that the DSC address this in its Delta Plan, even to suggest a scientific body or group of agencies to take this ‘system-wide’ approach to track changes in/impacts to the overall health of the Delta. Without such oversight, another Delta crash could occur with no way to determine what went wrong, and what factors led to such a crash.

We very much appreciate the work that the DSC is doing and its ongoing efforts to obtain and incorporate public comments and input. We look forward to your review of our comments. Please call me at (925) 779-7025 if you would like more information or if you have additional questions.

Sincerely,

A handwritten signature in black ink that reads "Phillip Harrington".

Phillip Harrington
Director of Capital Improvements/Water Rights
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Delta Plan Fifth Draft Comment from the City of Antioch 9/30/2011

Chapter	Page number	Line number	Text	Comment
Chapter 1				
	25 26	21-23 1-5	No water rights decisions or water contracts that directly or indirectly impact the Delta are made without consideration of the coequal goals...etc.	Does this indicate that the Delta Plan seeks to replace the current water rights system in California?
Chapter 3				
	54	27-31	Incorporation of Another Plan into the Delta Plan, Updating the Delta Plan	In cover letter to our comments regarding the Fifth Draft, dated 9.30.11--The Delta Plan does not mention nor address cumulative impacts to the Delta system from ongoing + new projects/programs. The effect of not taking a system-wide approach to policy is a Delta ecosystem or water quality/supply crash with no understanding about which event, program, or project caused it. Need a policy or recommendation to create a scientific oversight body to monitor the health of the Delta system-wide.
	55 56	13-14 1-7	...the Delta Reform Act requires the Council to establish and oversee a committee of agencies responsible for implementing the Delta Plan...	Is this committee only responsible for implementing the Delta Plan, or will it meet on an ongoing basis? Who is part of this committee, and will the Delta stakeholders and/or the public have a seat on this committee in addition to agencies?

	61	16-31	Discretionary Incorporation of Another Plan or Program into the Delta Plan	Again, no discussion of considering the cumulative impacts that an additional plan may add to the Delta System. Need a policy/entity to provide for oversight and monitoring.
	61	32-38Upon appeal the Council retains the authority to find the specific project inconsistent with the Delta Plan even if the Council finds that the larger plan is consistent with the Delta Plan.	This seems to indicate that a project under BDCP could be found inconsistent with the Delta Plan. Is this correct?
	62	20-23	...must file a consistency certification indicating only that he covered action is consistent with the BDCP. The Council retains the authority to find the covered action inconsistent with BDCP and therefore the Delta Plan.	This seems to indicate that BDCP only needs consistency with BDCP. The above comment from Page 61, lines 32-38 seems to contradict this. Please clarify.
Chapter 4				
	82	4-8	WR P1 - A covered action to export water from, transfer water through or use water in the Delta is inconsistent with the Delta Plan if the covered action negatively impacts one or more of the coequal goals and one or more of the water suppliers that receive water from the Delta significantly causes the need for the covered action by failing to comply with one or more of the following	Would this indicate that the BDCP would be inconsistent with the Delta Plan if it significantly impacts one of the water suppliers (such as Antioch) causing the need for a covered action, such as a change in Antioch's diversion point, a water rights transfer or another regional solution driven by the impacts to Antioch's water supply and quality?
	83	28-40	Evaluation of regional water balance	How are current water rights impacted by the water balance activity? Does this mean that water supply would be curtailed, despite holding pre-1914 water rights?

	84	34-37	WR R5 – SWRCB and/or DWR should require that proponents requesting a new point of diversion, place of use, or purpose of use that results in new or increased use of water from the Delta watershed should demonstrate that the project proponents have evaluated and implemented all other feasible water supply alternatives	Antioch may need to change its point of diversion or place of use, because of the impacts of the BDCP. Does this mean that such a mitigation would have to demonstrate that all other water supply alternatives have been evaluated, even though the change in diversion or place of use were a mitigation for a BDCP project? Also, do pre-1914 water rights holders have to comply with this?
	111	Map text	Since the 1960's our water system with upstream reservoirs and "other human-created management" has changed these patterns in two ways:	Insert "such as water exports" after "other human created management." Add a Number "3) Delta outflow was influenced by large outgoing flood flows that are now controlled."
	113	10-12	ER P1 Prior to the establishment of revised flow objectives criteria identified above, the existing Bay-Delta Water Quality Control Plan objectives shall be used to determine consistency with the Delta Plan.	The current BDCP operation alternatives contain a move of water quality compliance point from Emmatton to Three-Mile Slough. This is will not be in compliance with the existing WQCP.

	114	1-7	Determine that a covered action that would increase the capacity of any water system to store, divert, move, or export water from or through the Delta would not be consistent with the Delta Plan until the revised flow objectives are implemented. Recommend that the State Water Resources Control Board cease issuing water rights permits in the Delta and the Delta watershed (or, if the absence of flow criteria is specific to one or more of the major tributaries, then the recommendation could be focused on the impacted areas).	Would these apply to any petition for change of use including a petition by BDCP to SWRCB for change of compliance point?
	121	24-26	ER R3 – State and Federal fish agencies....should complete “ongoing negotiations” toward a habitat agreement with water supply agencies	To what “ongoing negotiations” is this referring to-- BDCP? If so, state here. If not, clarify the scope of projects you are referring to here.
	122	19-32	Controlling stressors is difficult or impossible....discussion about the lack of science about cause and effect.	Again, the Delta Plan needs a policy or recommendation for determining the cumulative impacts of stressors and projects in the Delta watershed.

	124	25-34	ER R7 – “...For example, workshops would consider options for varying salinity to reduce impacts of nonnative invasive species while providing overall ecosystem benefits and minimally disrupting water supply.”	<p>Suggest deleting “minimally.” The Delta Plan discusses options for varying salinity throughout the Plan.</p> <p>Depending upon the location and the conditions, allowing variable salinity could have major impacts on in-Delta M&I water supply/quality. Increased salinity would also impact recreational boating and fishing in the Delta.</p> <p>Recreational boating/fishing are the #1 “recreational” revenue producers for the Delta, according to the Economic Sustainability Plan draft (8.9.11).</p> <p>Boaters use the Delta for its fresh water environment; numerous issues related to boat and marina maintenance would deter this recreational use.</p>
	127	19-37	“Progress toward restoring in-Delta flows to more natural flow patterns to support a healthy estuary. Metrics: results from hydrological monitoring and hydrodynamic modeling ...”	<p>This performance measure is very vague; more detail is required, including defining what constitutes a natural flow pattern (which should be tied to pre-1918 conditions).</p>

Chapter 6	133	19-21	To support a more resilient and healthy ecosystem, salinity patterns should be consistent with a more naturally variable hydrograph with high-quality river inflows.	Delta outflow is missing here and is a crucial factor for attainment of the co-equal goals of water quality in the Western Delta as well as for species such as Delta Smelt. Add outflow. Add that the salinity variability historically occurred farther west than it does today (i.e., salinity was more variable historically, but the system was also far fresher than it is today).
	136	35-36	This freshwater-saltwater gradient has changed over the past 150 years because 35 of landscape modification, water management, and climate variability	"Water management" should be changed to "exports, diversions, and other water management." Exports and diversions need to be inserted wherever "water management" occurs in the Delta Plan
	136	41-44	...Even with these measurable shifts in the salinity gradient caused by diversion, storage, and conveyance of water, the primary driver of salinity variability in the western Delta and Suisun Marsh continues to be the amount of precipitation in the watershed.	This is not correct on its face. "Delta outflow" is the major factor for salinity and variability in the western Delta. Historically, fresh water was present in the western Delta even during dry years (see CCWD historic salinity report). Further, the channelization of the Delta has changed the system's response to precipitation, increasing the amount of salinity intrusion (CCWD Historical Salinity Report, 2010).

	137	15-20	<p>..The endangered Delta smelt (<i>Hypomesus transpacificus</i>) show a preference for the LSZ. Their distribution during most of the year is centered near X2 (Nobriga et al. 2008). The position of X2 is also correlated with the abundance of several estuarine fish and invertebrates such as the bay shrimp (<i>Crangon franciscorum</i>) and longfin smelt (<i>Spinichthys thaleichthys</i>). That is, higher outflows (smaller X2 values) are correlated with greater abundance of longfin smelt and bay shrimp (Kimmerer 2004).</p>	<p>Given that Delta Smelt are dependent upon low salinity zone in the western Delta, how will this freshwater zone be preserved, given the BDCP change to outflows, and move of compliance points from Emmaat to Three Mile Slough, which will allow less flow and higher salinity?</p>
	137	21-27		<p>.. The evidence is strong, however, that the Delta was a freshwater ecosystem in the western Delta for 2,500 years before human modification in the nineteenth and twentieth centuries (Malamud-Roam and Ingram 2004).</p>

	137 138	25-27 1-2	Dredging of channels, reduction in the amount of tidal marsh, and construction of levees have changed the Delta salinity gradient by increasing the strength of tides in the Delta, increasing connections between channels, and reducing the moderating effects of wetlands and floodplains on outflow. Consequently, simply allowing more variability in Delta outflow will not produce the same salinity gradient patterns that existed before development.	Add “water exports” as a cause of salinity gradient change in the first sentence. Exports (since the early 1900s) have dramatically changed the salinity gradient. Note Antioch’s comment letter to Isenberg, Grindstaff et al regarding impacts of BDCP, dated 11/15/10 We agree that “simply allowing more variability in Delta outflow will not produce the same salinity gradient patterns that existed before development.”	The statement implies that salinity variations would benefit native species; however, as noted in CCWD Historical Salinity study report (2010), while the Delta did experience greater variability in the past, it did so within a far fresher environment than currently exists. Thus, it is not clear that greater salinity variation would benefit native species. We concur about allowing salinity to vary could have negative impact on AG and M&I water quality. Please add that recreational boating and fishing would also be impacted.
	138	17-21	Water quality at the State Water Project (SWP) and Central Valley Project (CVP) export pumps in the southern Delta, while usually meeting all applicable standards for municipal and agricultural use, is significantly higher in salinity than Sacramento River inflow to the Delta. Allowing salinity to vary in a way that might benefit native fish species could impact agricultural and municipal uses of Delta water at SWP, CVP, and other Delta diversion points. Elevated salinity reduces crop yields (Hoffman 2010) or, if high enough, makes water unusable for agricultural purposes.		

	139	26-30	Sources of these drinking water constituents of concern include natural processes, such as tidal mixing of seawater into the Delta, and the flux of water and organic matter from wetlands, as well as urban runoff, agricultural runoff, and municipal wastewater discharge. Pathogenic protozoa, bacteria, and viruses are also present in Delta waters and are a disease risk for both drinking water and body-contact recreation.	Add “water exports” to the non-natural causes listed in this sentence, as increased exports increase salinity in drinking water in the Western Delta. One of the primary factors for tidal mixing of seawater into the Delta has historically been water exports and large diversions from the north (Means Report, 1928 about changing conditions in the 1900s due to increased exports and recent DWR data about exports and salinity increase.)
Chapter 8	191	33-34	Boating and water-dependent recreation represent the highest percentage of existing recreation activities in the Delta. In the California Department of Boating and Waterways' 2002 study, annual boating-related visitor days to the Delta were estimated at 6.4 million in 2000, with a 1 projected growth to 8 million visitor days by 2020 (DBW 2002).	Delta Economic Sustainability Plan concurs with this. Increased salinity or increased variability in salinity will impact boaters, species and M&I. Boaters use the Delta for its fresh water environment. Numerous issues related to boat and marina maintenance would deter this #1 recreational economic factor in the Delta.

	197	28-31	DP R1 The Economic Sustainability Plan should include, but not be limited to....	<p>Suggest change to read:</p> <p>“The economic goals, policies, and objectives in local general plans and other local economic efforts, including recommendations on continued socioeconomic sustainability of Delta agriculture and its infrastructure, as well as other beneficial use of public trust resources (such as water quality for M&I, boating and recreation to support the proposed economic strategies and legacy communities in the Delta”</p>
	208	17-23	Urgent expenditures for water reliability and ecosystem protection: Immediate steps should be taken to protect the existing Delta water export system from flood risks, and protect ecosystem improvements being implemented pursuant to existing mitigation commitments of the SWP and the Central Valley Project (CVP).	<p>This indicates that only water export system expenditures are considered urgent. What about levees in the Western Delta, that protect the whole system?</p> <p>Suggest change to read:</p> <p>“Immediate steps should be taken to protect the existing Delta “water supply system” export from flood risks, and protect ecosystem improvements being implemented pursuant to existing mitigation commitments of the SWP and the Central Valley Project (CVP).</p>
Chapter 9				

	211	20-21	FP R6 - The Legislature should authorize the Delta Stewardship Council to develop reasonable fees for beneficial uses and reasonable fees for those who stress the Delta ecosystem	Please clarify: What level of and type of stress is indicated by the statement "for those who stress the Delta ecosystem?" Broadly interpreted, this could mean a boater, a fisherman, a hiker, as well as current M&I user.
	212	10-18	FP R12 - Establish a statewide public goods charge (or broad-based user fee) for water. The Legislature 10 should create a public goods charge (similar to the energy public goods charge created in 1996) 11 on urban water users and agricultural users. This charge could provide for ecosystem costs that were once paid with general obligation bonds, or could be used for State water management costs such as developing the California Water Plan Update or science programs	This indicates that ecosystem restoration mitigation projects required by the BDCP would be paid for by impacted stakeholders in the Delta. This is a "double hit" cost impact to in-Delta agriculture and other in-Delta stakeholders, who would therefore be required to pay for BDCP's mitigation credit projects as well as suffer the impacts of the BDCP project itself.